

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NEFTALI MONTERROSA, et al.,

Plaintiffs,

v.

CITY OF VALLEJO, et al.,

Defendants.

No. 2:20-cv-1563 DAD DB

ORDER

On January 24, 2023, plaintiffs filed a motion to compel compliance with a subpoena served on non-party Vallejo Police Officers Association (“VPOA”) for a hearing before the undersigned pursuant to Local Rule 302(c)(1). (ECF No. 59.) VPOA failed to respond in any manner to plaintiffs’ motion. Accordingly, plaintiffs’ motion was granted on March 7, 2023. (ECF No. 63.)

On August 28, 2023, plaintiffs filed another motion to compel VPOA’s compliance and noticed the motion for hearing before the undersigned on October 13, 2023.¹ (ECF No. 68.) Plaintiffs’ motion asserts that the VPOA has still refused to comply with plaintiffs’ subpoena and the undersigned’s March 7, 2023 order. (*Id.* at 68.) Plaintiffs’ motion asks “this Court to grant their Second Motion to Enforce the Subpoena to Vallejo Police Officers Association.” (*Id.*) Once again, VPOA has not responded in any manner.

¹ The undersigned finds plaintiffs’ motion suitable for resolution without a hearing pursuant to Local Rule 230(g).

“A Rule 45 subpoena is the only discovery method by which information may be obtained directly from a nonparty.” F. Subpoena, RUTTER GROUP PRAC. GUIDE FED. CIV. PRO. BEFORE TRIAL, Ch. 11(IV)-F. It appears that a copy of plaintiffs’ motion was served on the VPOA and the defendants. (ECF No. 68 at 3.) It also appears that VPOA’s president is aware of this dispute. (ECF No. 68-1 at 21.) VPOA has not filed any response to plaintiffs’ motion. After reviewing plaintiffs’ briefing, and given the total failure to respond, the undersigned finds good cause to grant plaintiffs’ motion.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiffs’ unopposed August 28, 2023 motion to compel (ECF No. 68) is granted;
2. The October 13, 2023 hearing of plaintiffs’ motion is vacated;
3. Within seven days of the date of this order plaintiffs shall serve a copy of this order on the VPOA; and
4. Within fourteen days of the date of this order VPOA shall provide the responsive discovery without objection.²

Dated: October 10, 2023


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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² VPOA is cautioned that further failure to comply with the Court orders may result in the imposition of sanctions.